

**75-5-209. Powers and duties of guardian of minor -- Residual parental rights and duties -- Adoption of a ward.**

(1) For purposes of this section, "residual parental rights and duties" is as defined in Section 78A-6-105.

(2) Except as provided in Subsection (4)(a), a guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of the parent's unemancipated minor, including the powers and responsibilities described in Subsection (3).

(3) A guardian of a minor:

(a) must take reasonable care of the personal effects of the guardian's ward;

(b) must commence protective proceedings if necessary to protect other property of the guardian's ward;

(c) subject to Subsection (4)(b), may receive money payable for the support of the ward to the ward's parent, guardian, or custodian under the terms of a:

(i) statutory benefit or insurance system;

(ii) private contract;

(iii) devise;

(iv) trust;

(v) conservatorship; or

(vi) custodianship;

(d) subject to Subsection (4)(b), may receive money or property of the ward paid or delivered by virtue of Section 75-5-102;

(e) except as provided in Subsection (4)(c), must exercise due care to conserve any excess money or property described in Subsection (3)(d) for the ward's future needs;

(f) unless otherwise provided by statute, may institute proceedings to compel the performance by any person of a duty to:

(i) support the ward; or

(ii) pay sums for the welfare of the ward;

(g) is empowered to:

(i) facilitate the ward's education, social, or other activities; and

(ii) subject to Subsection (4)(d), authorize medical or other professional care, treatment, or advice;

(h) may consent to the:

(i) marriage of the guardian's ward, if specifically authorized by a court to give this consent; or

(ii) adoption of the guardian's ward if the:

(A) guardian of the ward is specifically authorized by a court to give this consent; and

(B) parental rights of the ward's parents have been terminated; and

(i) must report the condition of the minor and of the minor's estate that has been subject to the guardian's possession or control:

(i) as ordered by court on petition of any person interested in the minor's welfare; or

(ii) as required by court rule.

(4) (a) Notwithstanding Subsection (2), a guardian of a minor is not:

(i) legally obligated to provide from the guardian's own funds for the ward; and  
(ii) liable to third persons by reason of the guardian's relationship for acts of the ward.

(b) Sums received under Subsection (3)(c) or (d):

(i) may not be used for compensation for the services of a guardian, except as:

(A) approved by court order; or

(B) determined by a duly appointed conservator other than the guardian; and

(ii) shall be applied to the ward's current needs for support, care, and education.

(c) Notwithstanding Subsection (3)(e), if a conservator is appointed for the estate of the ward, the excess shall be paid over at least annually to the conservator.

(d) A guardian of a minor is not, by reason of giving the authorization described in Subsection (3)(g)(ii), liable for injury to the minor resulting from the negligence or acts of third persons, unless it would have been illegal for a parent to have given the authorization.

(5) A parent of a minor for whom a guardian is appointed retains residual parental rights and duties.

(6) If a parent of a minor for whom a guardian is appointed consents to the adoption of the minor, the guardian is entitled to:

(a) receive notice of the adoption proceeding pursuant to Section 78B-6-110;

(b) intervene in the adoption; and

(c) present evidence to the court relevant to the best interest of the child pursuant to Subsection 78B-6-110(11).

(7) If a minor for whom a guardian is appointed is adopted subsequent to the appointment, the guardianship shall terminate when the adoption is finalized.

Amended by Chapter 3, 2008 General Session